

#### § 301.7609-4

#### 26 CFR Ch. I (4-1-08 Edition)

the summons was served on or mailed to the notified person (see section 7609(d)(1)).

(c) *Presumption no notice has been mailed.* Section 7609(b)(2)(B) permits a notified person to institute a proceeding to quash by filing a petition in district court and notifying both the Service and the summoned person. Unless the notified person has notified both the Service and the summoned person in the appropriate manner, the notified person has failed to institute a proceeding to quash. If the copy of the petition has not been delivered to the summoned person or the person and office designated to receive the notice on behalf of the Service within 3 days from the close of the 20-day period allowed to institute a proceeding to quash, it is presumed that the notification has not been timely mailed.

(d) *Effective date.* This section applies to summonses served after December 31, 1982. For the rules applicable to summonses issued on or after March 1, 1977 and served before January 1, 1983, see 26 CFR 301.7609-3 (revised as of April 1, 1984).

[T.D. 8091, 51 FR 23055, June 25, 1986]

#### § 301.7609-4 Summonses excepted from section 7609 procedures.

(a) *In aid of the collection of certain liabilities—(1) In general.* Section 7609(c)(2)(B) contains an exception to the general notice requirement when a summons is issued to a third-party recordkeeper. That section excepts summonses issued in aid of the collection of the liability of any person against whom an assessment has been made or judgment rendered or the liability at law or in equity of any transferee or fiduciary of such a person.

(2) *Examples.* Examples of summonses referred to in paragraph (a)(1) of this section are—

(i) Summonses issued to determine the amount held in a bank in the name of a person against whom an assessment has been made or judgment rendered;

(ii) Summonses issued for the purpose of ascertaining responsible corporate employees or officers for the 100 percent penalty under section 6672, so as to assist in collecting the amount of

withheld taxes which have been assessed against the corporation; and

(iii) Summonses issued to enforce transferee or fiduciary liability for a tax which has been assessed.

(b) *Numbered account (or similar arrangement).* Under section 7609(c)(2), a summons solely to determine the identity of a person having a numbered account (or similar arrangement) with a bank or other institution is excepted from the requirements of section 7609. A “numbered account (or similar arrangement)” under section 7609(c)(2) is an account through which a person may authorize transactions solely through the use of a number, symbol, code name, or other device not involving the disclosure of the person’s identity. A “person having a numbered account (or similar arrangement)” includes the person who opened the account and any person authorized to use the account or to receive records or statements concerning it.

(c) *Effective date.* This section applies to all summonses issued after February 28, 1977.

(Secs. 7610(a) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 7610(a) and 7805))

[T.D. 7899, 48 FR 32772, July 19, 1983, as amended by T.D. 8091, 51 FR 23055, June 25, 1986]

#### § 301.7609-5 Suspension of statutes of limitations.

(a) *Agent, nominee, etc.* Under section 7609(e), statutes of limitations are suspended if a notified person with respect to whose liability a summons is issued, or the notified person’s agent, nominee, or other person acting under the direction or control of the notified person, takes any action as provided in section 7609(b). A person is a notified person’s agent, nominee, or other person acting under the direction or control of a notified person for purposes of section 7609(e) if the person with respect to whose liability the summons is issued has the ability in fact or at law to cause the agent, etc., to take the actions permitted under section 7609(b). Thus, in the case of a corporation, direction or control by the notified person may exist even though less than 50 percent of the voting power of the corporation is held by the notified person.